IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5407 of 2005

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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XAVIER ELIZABETH ALICK - Petitioner(s)

Versus

PRINCIPAL DR.C.P. PATEL & 1 - Respondent(s)

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Appearance :
MR KB PUJARA for Petitioner(s) : 1,
MRS VD NANAVATI for Respondent(s) : 1 - 2.
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 22/09/2005

CAV JUDGMENT

1.0 By way of the present petition the petitioner has prayed for a direction to the respondent to issue Certificate of Eligibility to the petitioner for admission to B.Ed course of Gujarat University in English Medium.

2.0 The case of the petitioner in nutshell can be stated as under:

2.1 After passing Standard X examination, the petitioner has pursued her studies and passed Bachelor of Arts Degree Examination of Indira Gandhi National Open University (IGNOU) after undergoing six months' Bachelor Preparatory Programme (BPP) which is designed for non 10 + 2 students who wish to pursue B.A. or B.Com with IGNOU.

2.2 As per the University Grants Commission (UGC) Circular issued in February 1992, the Certificates, Diplomas and Degrees awarded by IGNOU are to be treated equivalent to the corresponding awards of Universities in the Country. Therefore, according to the petitioner, the B.A. Degree of the petitioner is equivalent to B.A. Degree of any other University in the country and therefore she is eligible and qualified to get admission in B.Ed course of Gujarat University.

2.3 Gujarat University had issued Advertisement dated 12.3.2005 for admission to B.Ed Course for the year 2005-2006 through Centralised Admission System. For applying to the said admission the petitioner is required to obtain Certificate of Eligibility from Gujarat University. The petitioner has therefore applied for the said certificate in prescribed form. However, the respondents made an endorsement on the form to the effect

that “Not Eligible”, and returned the same to the petitioner. The petitioner, therefore, made an inquiry and the petitioner was informed that the petitioner has not studied under 10 + 2+3 pattern of education and therefore she cannot be granted Certificate of Eligibility and consequently she cannot be granted admission to B.Ed course.

2.4 The petitioner, therefore, sought a direction to the respondents for issuance of Certificate of Eligibility and other consequential reliefs for getting admission to B.Ed course of Gujarat University.

3.0 Mr. K.B. Pujara, learned counsel for the petitioner submitted that the action of not issuing the Certificate of Eligibility to the petitioner is contrary to the letter and spirit of the IGNOU Act, 1985 and the aims and objects behind the said Act. He further submitted that the impugned action is discriminatory in nature and this Court can direct the respondents to issue Eligibility Certificate to the petitioner. According to Mr. Pujara, the Certificates, Diplomas and Degrees awarded by IGNOU are equivalent to the corresponding awards of the Universities in the country and therefore the respondents cannot refuse issuance of Certificate of Eligibility for the purpose of joining B.Ed Course.

3.1 Mr. Pujara submitted that National Council for Teacher Education, constituted in the year 1995 has laid down norms and standards and

according to the said norms, eligibility for admission to B.Ed Course has been laid down to the effect that the candidate must possess at least 45% marks in the Bachelor's/Master's Degree with at least two school subjects at the graduation level. It is further laid down that admission should be made either on the basis of marks obtained in the qualifying examination or in the entrance examination conducted by the University/State Government, as per the policy of the State Government/University, to which the institution is affiliated. He, therefore, submitted that the respondents ought to have issued Certificate of Eligibility to the petitioner.

3.2 Mr. Pujara contended that the University cannot prescribe higher standard than the qualifications fixed by the NCTE and therefore the decision of the respondent University is illegal and bad in law.

3.3 Mr. Pujara has relied upon a decision in the case of State of T.N. Vs.Adhiyaman Edu. & Research Institute, reported in 1995(4) SCC 104, wherein it is held that State Acts cannot lay down standards and requirements higher than those prescribed by the Central Act for technical institutions and cannot deny situations/seats to applicants on ground that they do not fulfill such higher standards/requirements.

4.0 Mrs Vaibhavi Nanavati appearing for the respondents relied upon

various provisions of Gujarat University Act, 1949 and submitted that the University has considered the application of the petitioner and it was found that as per the provisions of the Act the petitioner is not eligible for Certificate of Eligibility as she has not graduated with 10 + 2 + 3 pattern. She submitted that in all the Universities of Gujarat State the students who have graduated with 10+2+3 = 15 years studies are considered eligible for admission to B.Ed course. According to her even the students from outside Gujarat State also should have studied 10+2+3 = 15 years or 10+1+4 = 15 years to be eligible for admission to B.Ed course.

5.0 As a result of the hearing and perusal of the record, I am of the view that the contentions raised by the petitioner cannot be accepted.

6.0 Section 22(ix) gives power to make Regulations regarding examinations of the University and conditions on which students shall be admitted to them.22(x) of the Gujarat University Act, 1949 empowers the respondents to make and approve Regulations prescribing the equivalence of examinations. Therefore, the University has the power to make regulations prescribing the equivalents of examinations. Further, Chapter VIII deals with Enrolment and Degrees. Section 42 of the Act contained in the said chapter reads as under:

> 42. Qualification for enrolment of students of the University. – No student shall be enrolled as a student of the University unless he has passed –
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> [i] the Secondary School Certificate Examination in the eleventh standard or the Higher Secondary School Certificate Examination conducted by the Gujarat Secondary Education Board in such subjects and with such standards of attainment as may be prescribed by the Statutes; or
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> [ii] the Entrance Examination, if any, which may be instituted by the University with the consent of the State Government, and held in such subjects and in such manner as may be prescribed by the Statutes, or
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> [iii] any other examination prescribed as equivalent to the examination referred to in clauses (i) and (ii)
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> and possesses such further qualification, if any, as may be prescribed by the Statutes:
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> Provided that a student who has passed secondary School Certificate Examination in the tenth standard conducted by the Gujarat Secondary Education Board in such subjects and with such standards of attainment as may be prescribed by Statutes or any other examination prescribed as equivalent to the aforesaid examination may be enrolled as a student of the University for the purpose of such diploma courses as may be prescribed by statutes.
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> Explanation: In this section "Higher Secondary School Certificate Examination" means the examination of the students in the twelfth standard.

7.1 Thus, the provision mandatorily directs that no candidate shall be enrolled to the University unless he/she has passed necessary examinations i.e. eleventh standard or the Higher Secondary School Certificate Examination conducted by the Gujarat Secondary Education Board.

8.0 Further, Schedule III read with subsection 29(1B) also prescribes the minimum qualifying examination of enrolment. From the record it is found that equivalence degree programme was considered way back in the year 1992 by the Academic Council and it was decided that the students seeking admission after 10+2+3 i.e. 15 years should be considered eligible for admission. The petitioner has undergone six month's BPP which is not equivalent to two years of Higher Secondary Course undertaken by a candidate from any State Higher Secondary Education Board. Admittedly by taking Bachelor of Arts Degree from IGNOU the petitioner has followed the pattern of 10+3 which is equivalent to 13 years. According to the decision taken by the Gujarat University under the powers conferred upon it, only the students who have studied upto 10+2+3 = 15 years and graduated are considered eligible for admission to B.Ed Course. Therefore the petitioner cannot be said to be eligible for getting admission to B.Ed Course as she has followed the pattern of 10+3. . Learned counsel for the petitioner is unable to point out that the decision of the Gujarat University to follow the pattern of 10+2+3 = 15 years for grant of admission to B.Ed College is in any way arbitrary and illegal.

9.0 As regards the rules and regulations framed by UGC and NCTE is concerned, it is pointed out that the rules for eligibility are mentioned in the Admission Form for entrance to B.Ed. course wherein it is stated that a

candidate will be considered to be eligible for admission to B.Ed course who has obtained at least 45% marks (40 marks for S.C., S.T. candidates) of the total marks decided by N.C.T.E, and passed the degree examination of 10+2+3 pattern of any affiliated University recognized by UGC. Therefore, I am of the opinion that the University is justified in stipulating the aforesaid pattern of 10+2+3 = 15 years for grant of admission to B.Ed College. Apart from that this being a Teacher's Training Course, I am of the opinion that the standard fixed by the University is just and proper.

10.0 Learned counsel for the respondent University has relied upon a decision in the case of Rajendra Prasad Mathur Vs. Karnataka University and others, reported in AIR 1986 SC 1448. Paragraph 7 of the said decision is relevant which reads as under:

> "7. But it was then contended on behalf of the appellants as a last alternative that the action of the Karnataka University in not recognizing the Higher Secondary Examination held by the Secondary Education Board, Rajasthan and in any event the first year B.Sc. examination of the Rajasthan and Udaipur Universities as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore was arbitrary and unreasonable. We cannot accede to this contention. It is difficult to appreciate how the Higher Secondary Education Board, Rajasthan after only 11 years schooling could be regarded as equivalent to the Pre-University Examination of the Pre-University Education Board, Bangalore which came as the culmination of a full 12 years course of study. So also it is difficult to understand how the decision of the Karnataka University not to recognize the first year B.Sc examination of the Rajasthan and Udaipur Universities as equivalent to the Pre-

> University Examination of the Pre-University Education Board, Bangalore could be regarded as arbitrary or fanciful. It is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgement over the decision of the University because it is not a matter on which the Court possesses any ex-pertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University. Here we find that no material has been placed before the Court on the basis of which the Court could say that the decision of the Karnataka University not to recognize the higher Secondary Examination of the State of Rajasthan or the first year B.Sc Examination of the Universities of Rajasthan and Udaipur as equivalent to the Pre-University Education Board, Bangalore was arbitrary or not based on reasons. We must therefore reject this contention urged on behalf of the appellants.

10.1 Learned counsel for the respondent University has also relied upon a decision in the case of S.K. Mankad Vs. Gujarat University, reported in 1996(1) GLH (UJ) 18 wherein it has been held that the degree of B.Com. (External) from Osmania University, Hyderabad, was a degree course of duration of two years. The application of the candidate was not entertained on the ground that the graduation degree of two years as completed by the said petitioner from Osmania University, Hyderabad, was not treated as “an examination of any other University recognized as equivalent” and hence no eligibility certificate can be granted in his favour and he cannot be considered as eligible for admission to LL.B. Course.

10.2 On the facts of the case it cannot be said that the respondent University has laid down standards and requirements higher than those prescribed by the Central Act. Merely because the respondent University has not followed the pattern of IGNOU, it cannot be said that the pattern adopted by the University is illegal. Therefore, the decision in the case of State of T.N would not assist the petitioner.

11.0 Thus, in view of the settled legal position that it is for each University to decide the question of equivalence and it would not be right for the Court to sit in judgement over the decision of the University because it is not a matter on which the Court possesses any expertise this Court is unable to uphold the contention of the petitioner. As stated earlier, the University has explicit power to make and approve Regulations prescribing the equivalence of examinations, which power is not challenged in the present petition. As per the record produced by the respondent it is an established position that the equivalence degree programme was considered way back in 1992 by the Academic Counsel of the University and it was decided that the candidates seeking admission after 10+2+3=15 years should be considered eligible for admission. The petitioner has passed 10th standard examination and she has not completed 2 years of Higher Secondary Education. In fact the petitioner has undergone six month's Bachelor Preparatory Programme for Standard XI and XII. According to the respondents, the said six months' BPP is not

equivalent to two years of Higher Secondary Course undertaken by a candidate from any State Higher Secondary Education Board. In fact the petitioner has followed the pattern of 10+3 which is equivalent to 13 years. According to the norms of Gujarat University, it follows the pattern of 10+2+3 pattern. It is difficult to appreciate how such a decision taken by the Academic Council is arbitrary and unreasonable, when the Council is empowered to take such a decision. Learned counsel for the petitioner is unable to point out that such a decision is arbitrary or fanciful.

12.0 In the premises aforesaid I do not find any merits in the petition. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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